

**St. Mary Rehabilitation Working Group Meeting
10:00 – 3:00 July 27, 2005
Voting Center – Cut Bank, Montana**

Welcome and Introductions:

Members Present: Lt. Governor John Bohlinger, Pat Thomas (for Mike Tatsey), Jim Rector, Bud Mavencamp (for Marko Manoukian), Kevin Salisbury, Mike DesRosier, Randy Perez, Matt McCann, Kay Blatter (for Max Maddox), Gary Anderson, Dolores Plumage, John Lacey, Larry Mires (Exec. Director) Mike Tatsey arrived at 11:15. Absent: Steve Page, Randy Reed, Max Maddox, Dave Peterson, Mike Barthel

Information included in meeting handouts:

- Agenda
- Summary of agreements and action items from June 23 meeting in Malta
- DNRC organizational chart for St. Mary Rehabilitation Project.

Approve meeting agenda

- Gary Anderson asked that time be included on future agendas for members to comment on items other than current agenda topics ~~be included on future agendas~~.
- Matt McCann asked ~~that for~~ a discussion on the Executive Director position be added to agenda.
- Meeting agenda approved by consensus.

Review action items from June 22 meeting

- Paul A. reviewed agreements and actions items from June 22 meeting. Notes from June meeting have not been drafted. Gary Anderson questioned whether or not the group had formally agreed to approve the Executive Committee's recommendation that the ~~working Working group-Group~~ hire a facilitator/process manager on a 6-month contract. He remembered the show of support as being only a "test vote". Paul A. agreed to check back through meeting record to address Gary's concern.
- Approve June agreements and action items with the exception of Gary's concern.

Review proposal from MT Consensus Council

- Judy Edwards, Executive Director of the MT Consensus Council presented proposal for providing meeting management and facilitation services to the Working Group.
- There was extensive discussion on how the Consensus Council could help the Working Group. Some questioned if the role was just to keep meeting notes thus relieving DNRC of this duty. Paul A. responded that meeting notes were just a very small part of the package. Main role is as to help all the parties at the table do a better job of communicating. DNRC is not a neutral party in the process. He and John have to represent the ~~State's-state's~~ interests. Lt Governor Bohlinger saw the Consensus Council's role as being a neutral 3rd party in the process. The Consensus Council would not advocate for one group or another.
- Reach general agreement that the process could benefit from the Consensus Council's involvement. Consensus Council could help the Working Group identify their needs and better define the group's role in the process. The Consensus Council could also help the group move forward with their goals and not spend so much time getting stuck on small details.

DRAFT Meeting Notes

July 27, 2005

- Some folks felt it would still be hard to separate the Consensus Council from DNRC.
- Decision to accept the Consensus Council's proposal for a 6-month contract will be made after the lunch break.

Report on House Resources Committee hearings

- Larry Mires reported on Randy Reed's trip to Washington D.C. to testify before the House Committee on Resources. Rep. Rehberg had invited Randy to testify. Larry, John T., and Paul A. prepared Randy's testimony.
- The Western States Water Council testified at same hearing. They cited the need to rehabilitate the St. Mary Facilities in their testimony.

Report on National Water Resources Conference

- John T. reported on recent National Water Resource Conference at Big Sky on July ~~22nd~~. Max Maddox also attended the conference. Mike Dailey (DNRC, Glasgow) towed a section of the St. Mary siphon down to Big Sky as a display. Larry Mires arranged to borrow a trailer.
- John T. attended a reception for Mike Ryan the new director of the USBR's Great Plains Region. John also spoke about the St. Mary Project at a breakfast meeting sponsored by irrigation interests.
- National Water Resources Association (NWRA) is looking at the St. Mary Project as a flagship for the larger national issue of Reclamation's aging infrastructure. Mark Limbaugh (~~Assistant Secretary of the Interior for Water and Science~~~~Assistant Secretary to water~~) and Tom Donnelly (NWRA President) were invited to tour the project site. Having a national organization support the project in Washington D.C. is a major boost to the Working Group's and state's efforts.

Review proposed St Mary Project organizational structure

- Mary Sexton, Director of DNRC congratulated the Working Group on their success and thanked all those involved. She explained that DNRC has a large role to play in the process. By statute, DNRC is responsible for coordinating large water resource projects like the St. Mary's. She further explained that she had asked her staff to examine the project needs at the state level ~~and~~ to determine if all the needs were being addressed. She also requested an organizational chart showing how all the different parts of DNRC were linked together and communicating on the St. Mary Project.
- Paul A. presented an organizational chart showing how DNRC had organized for the project and how that internal organization related to the Working Group. John T. will be coordinating financial and policy efforts, while Paul A. will be coordinating technical and administrative efforts. Internal discussions within DNRC revealed a need to have a field coordinator in the basin. Mike Dailey from DNRC's office in Glasgow has been identified as the interim field coordinator.
- There was extensive discussion on how the addition of a DNRC field coordinator would impact the Working Group. Many members saw this as taking power away from the group and concentrating it into the hands of the State. There was ~~also~~ concern that the field coordinator would be usurping the duties of the Working Group's Executive Director. There was also some concern about who would have control over the Consensus Council if they were hired.
- Mary Sexton explained that organizational chart was internal to DNRC. It shows how DNRC has organized itself for the project. The intent is not to tell the Working Group

DRAFT Meeting Notes

July 27, 2005

how they should be organized. The Working Group can still hire an Exec Director and manage the person as they see fit.

- Mike Dailey felt that the field coordinator would fill a gap between the state and Working Group. Paul and John are working in Helena. The field coordinator would provide a better tie between Helena and the basin.
- Discussion ended with many members still feeling that the Working Group should hire an Exec. Director.

Updates from Congressional Delegation staff members

- Sara Converse (Senator Burns) – provided an update on \$1 million in Energy and Water Appropriation. Conference committee will not meet until after August recess. Committee will probably not get to material until ~~September~~. ~~Sept.~~
- Mike Waite (Rep Rehberg) – thanked Randy Reed for testifying in D.C. and the Working Group for supporting the effort.
- Kim Falcon (Senator Baucus) – handed out a letter from the Senator to the Working Group (see attached). Senator Baucus had secured \$8 million for the project through the federal Transportation Bill. Funding will be used to construct a new bridge over the St. Mary River and address some of the environmental issues associated with the dike protecting Highway 89 from Swiftcurrent and Boulder Creeks. Because funding is through the transportation bill, the Montana Dept of Transportation is now a partner in the project.
- Working Group received a phone call from Senator Baucus. The Senator thanked the Working Group for all their efforts. He felt it shows how much can be accomplished when everyone works together. He also explained how his position on the committee allows him to move Montana's issues forward. He thanked Senator Burns for his efforts on securing money through the Energy and Water committee. He also thanked Rep. Rehberg for all his efforts in the House.
- Mike T. expressed disappointment that the Tribe's issues are not being addressed. He felt no one was pushing the Tribe's agenda in D.C. As an example, he mentioned funding the Tribe was seeking to evaluate their irrigation project. Money for that task has not been earmarked in any of the federal funding received so far. Tribe is constantly being told that it is the BIA's responsibility. The BIA is not doing their job and nothing will ever happen if it is left up to them. The Working Group has to start mentioning and working on behalf of the Tribe's interests. He is happy about the \$8 million and will thank the Senator, but something has to start happening to show how the Blackfeet will benefit.
- John T. explained that the \$8 million in funding through the transportation bill would be used to address almost every environmental concern the Tribe has brought to the table. There are now funds to address Swiftcurrent and Boulder Creeks and sedimentation into Lower St. Mary Lake. John acknowledged that there was no money available to address the Blackfeet irrigation project. That request was part of the original \$6.75 million the Working Group and state were seeking from the Energy and Water committee. Only \$1 million is coming out of that committee and all of it is going to USBR. The ~~State-state~~ and Blackfeet are in the same boat. No one got the funds they were hoping for.

St. Mary's operation report

- Ed Hedlund (USBR) – provide an update on operations of the St. Mary Facilities. Reclamation is closely monitoring Sherburne ~~dam~~ Dam in light of the recent earthquake. Modifications to Sherburne outlet structure have been slowed down. Reclamation has to

DRAFT Meeting Notes

July 27, 2005

do NEPA and MEPA compliance. He suspects work will be completed in ~~2008~~. Reclamation is proceeding with work on Hall's Coulee siphons. Also working on outlets at Fresno Dam.

Working group budget

- Larry Mires presented monthly budget and expenditures – balance sheet and income statements.

Decision on hiring the MT Consensus Council to provide facilitation support

- Prior to lunch Working Group members heard Judy Edwards present a proposal from the MT Consensus Council to provide the group with meeting management and facilitation services. Paul A. asked the group to indicate their support for hiring the Consensus Council.
- Gary A. requested that the Working Group review the Council's performance part way through the contract period. Evaluation forms are posted on the Council's web site.
- Dolores P. expressed concern that there was no process in place for outside parties interested in providing services to the Working Group to submit a resume or statement of qualifications.
- Kay Blatter asked if the group was locked into a 6-month contract. Could contract be terminated earlier if it did not work out? Paul A. responded that contract could be terminated with a 30-day notice.
- Approved hiring the Montana Consensus Council to provide facilitation/process management services. Length of contract will be 6 months. Agreement included the provision that Working Group members will evaluate the Consensus Council on a quarterly basis. Evaluations will be done using materials on Consensus Council web site.

Identify priority activities fundamental to the success of submitting new project authorization for the '06 session of Congress

- Lt Governor's office is preparing to send a letter to all three members of Montana's Congressional Delegation asking them to request that the Bureau of Reclamation ~~began~~ begin drafting language to reauthorize the project. Letter will state that any new authorization language must contain the following provisions:
 - a. Authorizes USBR to rehabilitate the St Mary Facilities.
 - b. Establish an affordable funding package.
 - c. Protect the operation of the system for irrigation while recognizing the many other benefits derived from the project.
 - d. Provide enhancement opportunities to the Blackfoot Nation, i.e., hydropower production.
 - e. Authorization does not ~~does~~ establishes or affects Tribal ~~tribal~~, State ~~state~~, or Federal ~~federal~~ water rights.
 - f. Allow USBR to enter into cooperative agreements with the State ~~state~~ and Blackfoot Nation.
- Mike Tatsey expressed concern with any mention~~ed~~ of water rights. He asked that a copy of the draft letter be sent to the Tribe's attorney for review. A copy was faxed to her during the meeting.
- John T. outlined some of the key steps that must take place between now and February ~~2006~~.

DRAFT Meeting Notes

July 27, 2005

Local Level

- Working Group members need to keep up on policy and technical issues related to the authorization.
- Public outreach to keep basin residents informed of progress.
- Working Group members need to listen to ideas and/or concerns of their constituents and ~~Report-report~~ back to the Working Group.
- The contract holders, those paying the bill, are a key component to local support.
- Basin ~~residence~~ residents must also support authorization. Working Group is the voice for the basin

State Level

- Coordination of technical tasks
 - a. Geotechnical drilling at St. Mary siphons. TD&H on site today.
 - b. Engineering alternative study. Preliminary draft due first week of October?
 - c. Hydrological study
 - d. Economic study

Policy Issues to Discuss

- What are the mutual benefits derived from the project?
- How do these benefits fit into a new authorization?
- What is an acceptable cost-share package?
- What is the role of USBR, State-state and basin in major construction?

Working Group needs help from contract holders to answer these questions.

Timeline

- Friday (7/29) - Submit request for legislative drafting services.
~~October? - Preliminary Draft engineering report.~~
 - September - Presentation to Joint Board of Control.
 - Matt McCann and Kevin Salsbery will take lead on conversations with the Joint Board.
 - September - Many items on authorization should be coming together. Working Group should be prepared to make some decisions.
 - October? - Preliminary Draft engineering report.
 - February 1, '06 - Submit authorization legislation to Congress.
-
- Jim R. read a memo from Steve Page (see attached). Steve expressed concerns with authorization. Individual contract obligations need to be addressed, wildlife benefits need to be fully accounted for, concerned with USBR drafting the authorization language.
 - John T. agreed that contract holders need to understand what is in their contract with USBR. Reauthorizing the project may mean signing new contracts. He disagreed with Steve on the point of asking USBR for drafting assistance. USBR has asked to have opportunity to draft language. Congressional delegation supports USBR request. This gives the Working Group a view into how USBR sees things. It is only a draft of legislation. Working Group and State-state will review the draft and change it to fit our needs. It is better to use their words not ours to get federal funding.

DRAFT Meeting Notes

July 27, 2005

- Lenny Duberstein (USBR) felt drafting service was a good way to go. Need a good healthy tension between the different viewpoints in order to come up with a good final draft. He had a hard time seeing schedule coming together. There are still many issues to resolve and he felt the schedule was a little out of ~~sync~~^{sync}. He felt it did not account for progress on the water compacting negotiations or other regional needs.
- John T. – disagreed with Lenny. He felt the timeline would dovetail well with the funding and authorization. It presented a viable agenda to move the project forward.
- Working Group supported sending letter requesting legislative drafting services from the USBR.

Progress report on Phase 2 Engineering Studies

- Paul A. – Reported that Erling Juel, project manager for TD&H, was doing a site visit with representatives of USBR and the Blackfeet Tribe. They hope to start geotechnical drilling at the St Mary River Siphons in September.

Public Comment

- Kay Blatter – Would like to see pipe display taken to County Fairs
 - o GF – 7/30
 - o Hill County – 8/8 - 8/14
 - o Phillips County – 8/4 - 8/6
 - o Havre – 8/11?
- Pat Thomas, Chairman, Blackfeet Tribal Business Council – Tribe ~~can not~~^{cannot} support the alternative route through Canada. Tribe would not receive any benefits and would be left with an eyesore on the land. Blackfeet have endured this project across their land for almost a century. Funding received through transportation bill should be used to address Tribe's concerns. Working Group needs to remember where the water comes from. Need to address the issues where the water starts.
- Ron Crossguns (BIA) – right-of-away sketchy in our records. Canal crosses many different types of land ownership. There is government land, tribal land, fee land. Is the right-of-way large enough to accommodate a rehabilitated canal? Bring water to the east side of the reservation would also be a benefit.
 - o John T – Responded – USBR has been looking at right of way issues for a year and half. They just released the results of the ~~irre~~^{irre} research into this issue. State and Working Group are waiting to hear from the Tribe on what benefits they would like to see from the project. Hydropower production has been mentioned. There may be others, but the Tribe has not brought them forward yet. Hopes this happens soon so that they can be figured into the engineering design.
 - o Rich Aldrich (Solicitor General for Dept of Interior) – response to Ron – USBR and BIA are saying same thing. USBR's research does reveal that canal ~~is out side~~^{outside} of right-of-way. In some places, no right-of-way information exists - data gaps. Fractured land ownership is a significant issue. Bridge cannot be done ~~with out~~^{without} without right-of-way ~~right-of-way~~ being done first. BIA will have to do NEPA compliance on right-of-way for bridge.
- Debbie Entz – Family has lived on land adjacent to the canal area for 100 yrs. Concerned that a rehabilitated canal may have a negative impact on local landowners and eco-system – animals, etc.

DRAFT Meeting Notes

July 27, 2005

o Paul A. – Responded that he had met with Debbie and other landowners. He had informed the engineers of their concerns and issue.

- Carol Juneau (HD85) Wants to be sure Blackfeet benefit from construction jobs
- Delores P. – Chairman Thomas spoke of concerns. There are many groups involved and things are moving very fast. She understands need to move quickly, but this way of doing business is foreign to native people. Indian people value building relationships. It is important to native people to take the time visiting with people to build relationships.
- Pat Shelts (Blackfeet Tribal Council) – in the past, USBR has failed to inform Tribe when doing environmental assessments on Blackfeet reservation. This makes no sense. Who knows the reservation better than the people who live there? Blackfeet can do these assessments. Blackfeet reservation is broken up into many types of surface ownerships. This requires extensive advance notice before starting processes or doing any work on the reservation.

Review action items, determine location and agenda items for August 24 meeting

- Next meeting will be in Havre on the August 24th. Larry Mires will make arrangements.
- Other meetings coming up.
 - o IJC Sept. 28 Havre - 29 Medicine Hat (is this two meetings on two diff dates?)
 - o Rep Rehberg in Great Falls on August 25
 - o Senator Burns in Great Falls on September 1.

Summary of Agreements

- Approve summary of agreements and action items from July 27 meeting pending resolution of issue on contracting for facilitation/process management services. See action item below.
- Approve agenda with addition of adding discussion on Exec Director to 11:25- 12:00 time slot.
- Approve hiring the Montana Consensus Council to provide facilitation/process management services. Length of contract will be 6 months. Agreement included the following provisions.
 - o Working Group members will evaluate the Consensus Council on a quarterly basis. Evaluations will be done using materials on Consensus Council web site.
 - o It is the intent of the Working Group to pay for the Consensus Council's services from the RDGP grant funds. If this is not possible, the cost will be shared between Working Group funds and RDGP grant funds.

Summary of Action Items

- Executive Committee will make a decision on hiring an Executive Director by Aug 5.
- DNRC will review recording from June Work Group meeting to clear up potential misunderstanding on agreement to seek agreement on hiring a process manager/facilitator. Was agreement actually reached or was the group only testing the water on the level of agreement?
- Add time in future agendas for Working Group members to comment on past agenda items.
- Working Group will develop a process for parties interested in providing services to the Working Group to submit a resume or statement of qualifications.

DRAFT Meeting Notes

July 27, 2005

- DNRC will send Jeanne Whiteing (Blackfeet attorney) a copy of DRAFT letter asking Congressional Delegation to request legislative drafting services from USBR. -- **Complete.**
- Matt McCann and Kevin Salsbery steer conversation on reauthorizing the St. Mary's through the JBC.
- Larry Mires will coordinate getting the siphon tube displayed at county fairs.
- Larry Mires and Mike Dailey will either repair the current map that accompanies the siphon tube or get a new map made.
- Larry Mires will work on scheduling meetings with Congressional Delegation members during their August recess.
- Larry Mires will set up next meeting in Havre on August 24.

DRAFT

United States Senate

WASHINGTON, DC 20510-2602

INTERNET:
max@baucus.senate.gov
<http://www.senate.gov/~baucus>

Dear Montanans,

During the last few months, I have worked very hard to make sure that Montana benefited from the new Transportation Bill. As a key member of the negotiating team, I was able to add language to this bill that will authorize \$8 million over the next 5 years for repairs to the bridge and roads that support the aging St. Mary Canal water diversion system.

I know that when I toured the St. Mary's system last spring, the working group presented a strong case for the immediate replacement of the St. Mary's bridge and road. I was amazed that the bridge and pipe system was able to function given its age and condition.

That is why I worked hard to inject funds into this transportation bill that will assist this aging network that provides drinking, irrigation, and recreation water as well as support fish and game habitat in Northern Montana.

The Energy and Water Appropriations Bill passed by the Senate earlier this month also provides an additional \$1 million for the St. Mary system. I know that the Bureau of Reclamation has traditionally performed needed repairs, based upon that the current water use agreement between the irrigators and the government. This authority mandates that maintenance is the responsibility of the water district.

However, this new \$8 million will be processed through the Montana Department of Transportation who will work with you to complete the bridge and road project. Because the State of Montana has set aside funds as a match for these transportation dollars, the repair of the bridge and the road will not have to be off the backs of Montana Irrigators.

The Transportation Bill is important for Montana. It includes more than 2 billion for statewide highway, bridge, mass transit and safety programs. The bill has been stalled for several years, but negotiators have worked hard to produce a final version of the legislation this week. Also, for all of you in northern Montana, we were able to secure \$40 million for Highway 2 improvements as well as \$25 million for the Two Medicine Bridge near Browning.

It has taken a lot of time and energy to get this bill completed and I am honored to have been a part of the process.

A handwritten signature in black ink that reads "Max Baucus". The signature is written in a cursive, flowing style with a large, prominent "M" and "B".

MEMO

To: SMRWG

From: Steve Page

Date: July 26, 2005

Unable to attend this meeting, I am asking Jim Rector to recite my thoughts regarding the priority activities fundamental to seeking Milk River Project Reauthorization.

Regarding the BOR "Revised Benefits Analysis" and a forthcoming TD&H economic analysis, I remain concerned that the social and environmental benefits of the Milk River Project are not adequately considered.

We have a compelling story to tell, that remains largely anecdotal and needs to be documented.

The fish and wildlife, environmental, and recreational values, directly benefiting from the project are immense.

- The riparian zone of the Milk River Valley represents one of the largest and healthiest cottonwood forests in North America.
- Numerous "listed" species inhabit the river and adjacent riparian zones, and a huge acreage of wetlands results from the Milk River Project. (Including two large FWP Wildlife Management Areas.)
- In-stream flow of the "Milk" is a critical component of the Missouri River ecosystem, homogenizing turbidity into the hungry water being discharged from Ft. Peck Reservoir.
- The project provides water to a significant National Wildlife Refuge and drinking water for the Belknap Tribe and 14,000 other residents of the basin. Compared to rural water projects, rehabilitation of the Milk River Project is very cost effective.
- Water quality of this impaired stream is enhanced to an easily treatable condition through dilution by St. Mary water and Fresno reservoir serving as a stilling pond.

The list goes on, and is "nice to know" information, but it is of little value until it is documented and an analysis of **the consequences of the alternative of no St. Mary water is considered.**

In my opinion, we need to engage the various agencies and organizations with vested interest in the Milk River Basin to assist us in documenting the benefits of the project, and we need to build alliances with appropriate “interests” on a state and national level to help drive our agenda. (USFWS, FWP, DU, NCBA, FBF, etc)

The working group can develop relationships with appropriate organizations, but in my mind, agencies such as FWP, DEQ, USFWS, and others, with vested interest in the Milk River need to become proactive.

Recognizing the inability or unwillingness of irrigators to pay significantly more, and the need to share the majority of the cost with the public, this project is likely to sell; only if it can be demonstrated as a widely supported multiple use project, providing significant benefit to a diversity of interests public. However, we can’t count on the BOR Revised Benefits Analysis to support the concept of an acceptable cost share formula and I also question the concept of using the BOR to draft acceptable reauthorization language.

The SMRWG / State of Montana should initiate an independent Benefits Analysis and develop the elements of an acceptable Project Reauthorization.

We continue to overlook the fundamentals of moving this project forward. Without reauthorization language acceptable to the large majority of basin irrigators and existing contact holders, our efforts will be futile.

We cannot forget that over 100,000 acres of privately held lands within the Milk River Project are encumbered by the project through legal and binding contracts with the Federal Government. Not the SMRWG, not the State of Montana; the Federal Government! Therefore, reauthorization will not fly unless it represents a viable benefit **acceptable to virtually all contract holders**.

It is my recommendation that we immediately take those steps necessary to gather the needed baseline information to support a repayment formula and terms and conditions of reauthorization, acceptable to irrigators and other basin interests. This needs to become an effort involving all affected interests and will require significant consultation and coordination.

In my mind, this should become our priority and is far more important than engineering and environmental studies at this point in time.

Furthermore, I support the concept of a Basin Coordinator serving the Working Group to orchestrate this effort. In the event Mike Daily is being considered, I have worked with Mike and recommend him for the job. He has the talent and rapport within the Basin to be an effective in this position.

Regarding the initiative to hire the Montana Consensus Council, I support hiring for a six month term and reevaluation of their value to the Working Group at the end of the term.

Public Comment

7-27-05

General Environmental Concerns:

- Congressional action that reauthorizes the Project - (St. Mary rehab) will likely contain language regarding who pays for the project and The Bill may also limit alternatives that could be considered because it will set funding limits for the Project.

As such - the environmental review appears to be set ~~for~~ towards generating a FONSI; the Proposed Action would be determined to not have an adverse impact on the human environment.

This Project may not have an adverse environmental impact - but it is a sizable & project and mitigation of impacts could require a lot of assessment.

Also, it is not known ~~who~~ when the EA (or EIS) would be written; before Congress takes action or after? on the reauthorization.

Congress could also exempt this Project from review under NEPA. That would leave environmental review under NEPA only.

John Tubbs - "IMM being authorized to BOR to initiate "environmental studies" (NEPA) on BOR's compliance with NEPA.

Submitted by,

Indian Country Environmental Associates
Geomatics Inc.